

REMARKS

The Office Action mailed August 28, 2009, considered and rejected claims 1-5, 11, 12, 17, 18, 20, 22, 23, 25 and 27. Claims 1, 2, 5, 12, 17, 18, 22, 23, 25, and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *McNeely* et al. (U.S. Publ. No. 2002/0162059) in view of *Mandava-2* (U.S. Pat. No. 7,203,928). Claims 3, 4, 11 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *McNeely* in view of *Mandava-2* and *Mandava-1* (U.S. Pat. No. 7,210,066). ¹

Traversal of the Obviousness Rejections

As is described in the background of the specification, the present invention provides a way to maintain versioning of tests and their relationships to software under tests without sacrificing querying, filtering, and reporting. The background describes two types of software test management systems. The first type provides the benefit of maintaining large amounts of data in an easily accessible form that provides ready querying and reporting. *See* Pg. 1, lines 29-31. The second type provides the benefit of maintaining the versioning information of the tests and the software under test. Prior art systems have not provided both benefits simultaneously. *See, e.g.* Pg. 2, lines 3-16. The present invention, on the other hand, is directed to a test management system that provides both of these benefits using a single XML file.

Initially, Applicant notes that the benefits of the present invention have been provided by prior art systems. The difference is that no single test management system has been able to provide both benefits of queryability and versioning as described in the background. The present invention provides these conflicting benefits by using a single XML file. As described in claim 1, the XML file stores metadata. This metadata describes the version of a test case, the version of the source under test, as well as the version of the test results generated by running the test case on the source under test. The XML file also stores metadata that is used to transform the XML file using XSLT transformations to enable the versioned data in the XML file to be queried. In this manner, the single XML file simultaneously provides both conflicting benefits.

To reject the independent claims, the examiner has cited *McNeely* in combination with *Mandava*. These rejections are traversed for various reasons, as detailed below, but primarily for

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

the reason that the McNeely reference describes a system similar to the first type of system described above, while the Mandava reference describes a system similar to the second type of system. In short, these references disclose little more than is described in the background of the specification. Further, there is no reason or motivation given to show how one system could be modified by the other to provide both benefits as is done in the present invention. Applicant therefore submits that the combination of McNeely and Mandava is improper to show obviousness of the claimed subject matter.

McNeely describes a system for testing networks. This system includes a version control environment. All that is disclosed about this version control environment is that it stores test cases and test results in a manner that preserves versioning. Most notably, McNeely states that this version control environment can be CLEARCASE available from Rational Software Corporation. *See* ¶ 34. This CLEARCASE is the same software product that is referred to in the background as the "IBM Rational TestManager."² Pg. 2, lines 5-6. As stated in the background, this product "creates a problem in that the database reflects a snapshot in time and as a consequence tests and source cannot be kept in sync unless all development assets are backed up at once, which is typically only done sparingly."

Mandava, on the other hand, only shows the storage of test results in an XML file that maintains queryability. However, as discussed in the previous response, Mandava does not maintain versioning. Therefore, the examiner's rejection merely cites two disparate references that perform different functionality. These two references represent the two types of systems described in the background. Neither reference provides any indication of how it could be modified to provide both benefits simultaneously. As such, these references fail to disclose anything more than that which Applicant has already disclosed in the background.

In the rejections, the examiner has argued that the motivation for combining the references would be to "enhance Mandava-2's system which offers significant advantages for providing consistent and uniform test results...." This is not a valid reason for combining references. Stating that one reference can be combined with another to enhance it without providing any evidence of how this could be accomplished is an example of hindsight analysis. Further, Applicant, in the background, has provided contrary evidence that combining the two

² A Google search of CLEARCASE shows that IBM purchased Rational shortly after the McNeely reference was filed.

references will not yield the enhancements argued by the examiner without further modification to the references. The present invention provides this enhancement in a way that is not taught or suggested by the combination of references. In other words, the present invention can be viewed as enhancing the systems of both McNeely and Mandava so that the conflicting benefits of versioning and queryability are provided by a single system. This enhancement of the prior art is the type of advancement for which patents are granted. It is not sufficient for the examiner to show that each limitation can be found individually in the prior art. The examiner must provide a reasonable motivation for combining teachings.

As stated in the independent claims, the way in which the present invention enhances the prior art systems to provide the benefits of versioning and queryability is by using a single XML file that stores versioning metadata as well as metadata for maintaining queryability. This is the primary aspect that is not taught or suggested in the prior art. Therefore, not only has the examiner failed to provide a valid reason for combining references, but the examiner has also failed to show that each limitation is taught by the art.

Specifically, the examiner has failed to show that the following limitations are taught by the art: "a test case file component that receives metadata that defines which versions of the one or more test cases test which versions of the source under test, and stores the metadata in an Extensible Markup Language (XML) file in conjunction with test results that are generated by executing the one or more test cases on the source under test, wherein metadata is also stored which indicates the version of the one or more test cases and the version of the source under test to which the test results correspond, the test case file component further storing attributes in the XML file that enable the querying of the test results," as claimed in combination with the remaining limitations of the independent claims. Applicant therefore submits that the independent claims are novel and non-obvious in view of the cited art.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any

Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at (801) 533-9800.

Dated this 14th day of September, 2009.

Respectfully submitted,

/Brian D. Tucker/

RICK D. NYDEGGER
Registration No. 28,651
BRIAN D. TUCKER
Registration No. 61,550
Attorneys for Applicant
Customer No. 47973